

UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF CALIFORNIA

DARREN GILBERT,

Plaintiff,

v.

DOCTOR'S CHOICE MODESTO LLC, et
al.,

Defendants.

Case No. 1:21-cv-00690-JLT-SAB

ORDER DENYING REQUEST FOR ENTRY
OF DEFAULT

(ECF No. 120)

On November 10, 2022, Plaintiff filed a third amended complaint. (ECF No. 98.) On January 5, 2023, Defendant Arif Faisal filed a motion to dismiss or quash service. (ECF No. 106.) On February 8, 2023, an answer was filed by the *pro se* Defendants in this action. (ECF No. 117.) Specifically, the docket indicates that the answer was filed by Defendant Shaibi Abdulqawi. However, this appears to be because the first page of the filing only contains this Defendant's name. (Id. at 1.) However, the signature page of the answer is signed by three Defendants: (1) Shaibi Abdulqawi; (2) Arif Faisal; and (3) Amar Kumar. (Id. at 4.)

On April 11, 2023, the District Judge denied the motion to dismiss, but also issued an order to show cause why the Court should not decline to exercise supplemental jurisdiction over the state law claims. (ECF No. 118.) Plaintiff did not file a response to the order to show cause, and on April 21, 2023, the District Judge issued an order declining to exercise supplemental

jurisdiction over the state law claims. (ECF No. 119.) On the same date, April 21, 2023, ten days after the denial of the motion to dismiss, Plaintiff filed a request for entry of default only as to Defendant Arif Faisal.

The request for entry of default was not entered or denied by the Clerk of the Court.¹ Of relevant note, in the most recent status report filed by Plaintiff on July 31, 2023, Plaintiff indicated they have been denied the opportunity to conduct discovery as to Shaibi Abdulqawi's and Arif Faisal's defenses. (ECF No. 128 at 2.) Plaintiff indicated that because these Defendants have not cooperated on a joint scheduling report, Plaintiff intends to bring a motion to strike the filed answers. (*Id.*) The Court has ordered Plaintiff to file any motion to strike the answers on or before September 6, 2023. (ECF No. 132.)

In light of the fact it appears Defendant Arif Faisal joined in the answer filed on February 8, 2023, (ECF No. 117), and Plaintiff's most recent status report indicates that he intends to move to strike the answer of Defendant Arif Faisal, the Court finds the outstanding request for entry of default is properly denied.²

Accordingly, IT IS HEREBY ORDERED that Plaintiff's request for entry of default (ECF No. 120) is DENIED.

IT IS SO ORDERED.

Dated: August 31, 2023


UNITED STATES MAGISTRATE JUDGE

¹ The Court generally addresses filings promptly, and was made aware of the outstanding request due to Plaintiff contacting the Courtroom Deputy directly. In the event a matter is left outstanding for an unusual amount of time, such as here, the parties may contact the Court within a reasonably shorter timeframe to request a status.

² Whether or not the answer was properly filed (a subject for the forthcoming motion to strike), the Court additionally notes that in the declaration attached to the request for entry of default, Plaintiff declares that Defendant Arif Faisal "has not appeared in this action," (ECF No. 120-1 at 2), despite such Defendant filing the motion to dismiss the third amended complaint.